

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – CS/HB 7105 establishes the Florida Distance Learning Task Force to make recommendations to facilitate access to undergraduate distance learning resources that enable public postsecondary education institutions to fulfill their missions while contributing to and sharing in the distance learning resources of the Florida Distance Learning Consortium.

CS/HB 7105 establishes the Florida Higher Education Distance Learning Catalog as an interactive, Internet-based central point of access to distance learning courses, degree programs, and resources offered by public postsecondary education institutions and is intended to assist in the coordination and collaboration of articulation and access.

CS/HB 7105 requires community colleges and state universities to prominently display a link to the catalog on the institution's website.

Ensure Lower Taxes – The bill authorizes community colleges and state universities to establish a distance learning fee for courses listed in the Florida Higher Education Distance Learning Catalog.

B. EFFECT OF PROPOSED CHANGES:

Background

This bill is the result of research completed by the Florida Legislature and Technology Review Workgroup in an effort to better understand how postsecondary distance learning policy and practices have changed over the years, and how such policies and practices have encouraged collaboration or increased access to postsecondary education.

Organization and Governance

In 1996, the State Board of Community Colleges (SBCC) established the Florida Community College Distance Learning Consortium (FCCDLC) as an advisory committee to the SBCC for purposes of:

- Advising the SBCC on policy and fiscal issues relating to distance learning and technology.
- Coordinating the establishment of a technology-enhanced delivery system that supports the mission of Florida's community colleges while also increasing access to higher education for all Florida residents.
- Representing the Community College System on regional and national committees.

Also in 1996, the Institute for Public Postsecondary Distance Learning was created by the Board of Regents (BOR) and the SBCC through a Memorandum of Understanding and was administratively assigned to Florida Gulf Coast University. The primary purpose of the Institute was to encourage and facilitate the cooperative development and delivery of distance learning instruction between the state universities and the community colleges. The Institute was governed by a board comprised of an equal number of community college and state university presidents.

In 1999, the BOR and the SBCC replaced the Institute with the Florida Virtual Campus (FVC). The FVC was designed to be a full-service, one-stop shopping source for statewide public postsecondary

distance learning activities, courses, programs, and services. Its mission was to assist Florida's public postsecondary institutions in providing affordable access to quality distance learning and to facilitate a seamless distance learning experience for students.

Chapter 2002-387, LOF, created s. 1001.28, F.S., which assigned specific distance learning duties to the Department of Education, including the duty to "facilitate the implementation of a statewide coordinated system and resource system for cost-efficient advanced telecommunications services and distance education which will increase overall student access to education."

In 2003, the governing bodies of the FCCDLC and the FVC consolidated the two entities to create the Florida Distance Learning Consortium (FDLC). The FDLC was designed to:

- Take on the responsibility for providing strong distance learning leadership for a K-20 educational delivery system.
- Exist as a membership organization open to any Florida accredited school district, community college, state university, or any Independent Colleges and Universities of Florida (ICUF) institution.
- Exist as an advisory body to the SBE in order to support the distance learning process at all educational levels and serve as a catalyst for greater collaboration and coordination.

While the FCCDLC and the FVC were informally consolidated in July 2003, neither the SBE nor the Board of Governors has taken official action to establish and formalize the FDLC. Since the FDLC has not been formally established within the state's postsecondary educational structure to include the identification of clearly defined roles and responsibilities, institutional participation and use of the FDLC services and activities is voluntary.

Postsecondary Distance Learning Catalog

Given the proliferation of distance learning courses within the community college system, the FCCDLC decided students would benefit from having a single source of distance learning course information. In 1997, the FCCDLC developed the first system-wide online catalog listing the distance learning courses offered by Florida's public community colleges. All participating community colleges entered their distance learning courses into the catalog and prospective students could search for the availability of distance learning courses by term, college, course number, or course prefix. Once a prospective student located a course of interest, the student would be linked to the appropriate college's website for course registration and enrollment.

By 2002, the FVC had created a similar online distance learning course catalog for the state universities. When the governing bodies of the FVC and the FCCDLC decided to consolidate, the two online distance learning course catalogs were combined to create a single comprehensive postsecondary distance learning course and degree program catalog.

Currently, the FDLC hosts the online distance learning catalog and includes searchable information on distance learning courses and degree programs available from community colleges, state universities, and participating ICUF institutions. Based on a set of pre-determined data elements, each institution is responsible for entering and updating its own course and degree program information in the catalog. One data element that is not required and therefore not included in the catalog is the cost and/or fee of the distance learning course. Additionally, some of the course/degree program links are somewhat misleading because they connect the prospective students to sections of the offering institutions' websites that have nothing to do with distance learning.

For 2006-2007, the FDLC reported that approximately 12,800 courses were listed in the catalog.¹ A Fall 2007 review of the 39 public postsecondary educational institutions' websites showed that only 7 community colleges and 1 state university had links on their sites to the FDLC's online distance learning catalog. Of these 8 sites, only 1 institution had placed the link along with its description on the section of its website dealing with distance learning; the other 7 institutions had placed the link under a "Helpful/Other Links" button which may not be easily found by a prospective student. Since the FDLC does not currently advertise the availability of the online distance learning catalog and only a limited number of postsecondary institutions provide a link/description about the catalog on their websites, it is unclear how students can find the catalog and access its courses.

Distance Learning Course Fee

Part II of chapter 1009 authorizes and establishes postsecondary student fees. These fees can be categorized into two broad categories: 1) general fees charged to all students, i.e., tuition, activity and service fee, financial aid fee, capital improvement fee, etc.; and 2) specific user fees for certain services charged only to those students receiving the service with the fee amount not exceeding the cost of the service, i.e., parking fee, laboratory fee, access or identification card fee, etc.

The overwhelming majority of postsecondary educational institutions charge some type of distance learning course fee; however, the amount of the fee varies depending upon the institution, the course level, the course subject matter, and resource requirements.² In the Community College System the distance learning course fee ranges from approximately \$5 to \$50 per 3-credit course, and in the State University System the distance learning course fee ranges from approximately \$25 to \$299 per 3-credit course.

Community Colleges

Section 1009.23(12), F.S., authorizes each community college board of trustees to establish a fee schedule for the statutorily-established user fees and fines listed in this subsection. Additionally, this subsection states that "a community college may not charge any fee except as authorized by law or rules of the State Board of Education." Section 1001.02(6)(e), F.S., authorizes the SBE to establish rules for the purpose of implementing statutorily-established requirements for student admissions, conduct and discipline, non-classroom activities, and fees. This rule authority, however, is for the purpose of implementing or interpreting the statutorily-established fees; it does not authorize the creation of new ones.

In establishing a fee for distance learning courses, it appears the phrase "or rules of the State Board of Education" has been interpreted to mean that the SBE has the power to expand upon the list of user fees and fines authorized in s. 1009.23(12), F.S., through the promulgation of a rule. The Division of Community Colleges cites Rule 6A-14.054(6), F.A.C., as its authority for the assessment of a distance learning course fee. This rule states that "each board of trustees may establish user fees in addition to tuition fees for services that incur unusual costs. Such user fees will not exceed the cost of the goods or services provided and will only be charged to students or agencies receiving those goods or services." Section 1009.23(12), F.S., is cited as the authority for this rule. While this section of statute establishes and authorizes certain user fees and fines within the community college system, a distance learning course fee is not specified.

State Universities

¹ Florida Distance Learning Consortium, PowerPoint Presentation, March 13, 2008.

² During 2007 a review of all 39 public postsecondary educational institutions' websites were reviewed to identify if the institution charged a distance learning course fee and, if charged, at what amount.

Section 1009.24(13), F.S., provides authority for each board of trustees to establish a “fee for off-campus course offerings when the location results in specific, identifiable increased costs to the university.” The State University System cites this section of statute and Rule 6C-7.003 F.A.C., as its authority for the assessment of a distance learning course fee. While it appears that this section of statute was originally intended for traditional classroom-type teaching done at an off-campus site, the university boards of trustees have expanded its applicability to include courses offered through distance learning.

Effect of Proposed Changes

Florida Distance Learning Task Force

CS/HB 7105 establishes the Florida Distance Learning Task Force to make recommendations to facilitate access to undergraduate distance learning resources that enable public postsecondary education institutions to fulfill their missions while contributing to and sharing in the distance learning resources of the Florida Distance Learning Consortium.

The Task Force is comprised of nine members appointed by the chancellors of the Division of Community College and the Board of Governors. The membership of the Task Force will consist of:

- Four members from the State University System
 - o One member being a state university president;
 - o One member having experience in academic affairs or student affairs;
 - o One member having experience in finance or business services; and,
 - o One member being from the Chancellor’s Office of the Board of Governors and having experience in distance learning education.
- Four members from the Community College System
 - o One member being a community college president;
 - o One member having experience in academic affairs or student affairs;
 - o One member having experience in finance or business services; and,
 - o One member being from the Chancellor’s Office of the Division of Community Colleges and having experience in distance learning education.
- One member who is the Executive Director of the Florida Distance Learning Consortium.

No later than March 1, 2009, the Task Force must submit its recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the State Board of Education, the Board of Governors, and the university and community college boards of trustees. The recommendations must address:

- The management and promotion of the Florida Higher Education Distance Learning Catalog to help increase student access to undergraduate distance learning courses and degree programs.
- The creation of a central content repository for instructional resources that can be used by faculty in developing, evaluating, and enhancing distance learning courses and degree programs.
- The potential use of distance learning as a means to address critical educational needs of the state.
- The evaluation and promotion of new and proven instructional methods, emerging technologies, and quality distance learning courses and degree programs.

- The coordination and support of educational programs and other training opportunities for faculty and professional staff in developing, evaluating, and enhancing distance learning courses and degree programs.
- A process for negotiating statewide licensing and pricing agreements for distance learning resources and entering into agreements with distance learning resource providers when such negotiations and agreements result in cost savings for the participating institutions.
- Opportunities for building partnerships among educational institutions, businesses, and communities.
- Methods that will improve student access to and completion of distance learning courses and degree programs.
- Policies that address ways to increase the access to and cost-effectiveness in the development and delivery of distance learning courses and degree programs. These recommendations must address the cost variations that exist within the delivery systems and identify the best practices that minimize costs of the development and delivery of distance learning courses while enhancing the effectiveness of instruction.
- An accountability mechanism to assess the effectiveness of the services provided by the Consortium.
- The future role of the Florida Distance Learning Consortium as a facilitator of the state's public undergraduate postsecondary distance learning.
- A process for reporting on the data collected by the Florida Higher Education Distance Learning Catalog.
- The definition of a distance learning course.
- A plan for developing and implementing an online system that streamlines and automates the registration process for students who have been admitted to a public postsecondary education institution and who wish to enroll in a course listed in the Florida Higher Education Distance Learning Catalog. The Task Force must identify and address the applicable administrative, program, and technical issues and protocols necessary to ensure that the implementation of such a system as an alternative to the standard registration process of each institution complies with the academic policies and procedures of the institution offering the course. At a minimum, the system should:
 - o Allow a qualified student to register for any undergraduate course listed in the catalog, including courses offered by an institution that is not the student's degree-granting or home institution.
 - o Allow for the expedited transfer of the distance learning course credit awarded by the institution offering the distance learning course to the student's degree-granting or home institution upon the student's successful completion of the distance learning course or courses.
 - o Be accessible from the catalog.
 - o Comply with all applicable technology security standards and guidelines established by the Agency for Enterprise Information Technology to ensure the secure transmission of student information.

The Task Force expires July 1, 2009.

Florida Higher Education Distance Learning Catalog

The bill establishes the Florida Higher Education Distance Learning Catalog as an interactive, Internet-based central point of access to distance learning courses, degree programs, and resources offered by

public postsecondary education institutions and is intended to assist in the coordination and collaboration of articulation and access.

The Florida Distance Learning Consortium must establish operational guidelines and procedures, which must include:

- Requiring participating institutions to provide clear, complete, and timely information on the distance learning course and degree program requirements; type of technology and technical equipment requirements; any prerequisite courses or technology competencies and skills; availability of academic support services; identification of financial aid resources; and all cost, fee, and payment information policies.
- Requiring that all distance learning courses and degree programs meet all applicable and appropriate accreditation standards and criteria.
- Requiring that, at a minimum, the catalog is reviewed at the start of each academic semester to ensure that all distance learning courses and degree programs comply with the operational guidelines and procedures established by the Florida Distance Learning Consortium.

The catalog must include an Internet-based analytic tool that allows for the collection and analysis of data including:

- The number and type of students who use the catalog to search for distance learning courses and degree programs.
- The number and type of requests for information on distance learning courses and degree programs not listed in the catalog.
- A comparison of distance learning course and degree program cost data.
- An evaluation of course completions, graduation, and retention rates of students enrolled in distance learning courses.
- A summary of specific requests by course type or course number, delivery method, offering institution, and semester.
- Other types of data as determined by the Consortium.

Community College Student Fees

The bill authorizes each community college to assess a student who enrolls in a course listed in the Florida Higher Education Distance Learning Catalog a per-credit-hour distance learning course user fee. The amount of the distance learning course user fee may not exceed the additional costs of the services provided that are attributable to the development and delivery of the distance learning course. The community college may not assess any other fees to cover the same costs. The community college is required to prominently display the link for the catalog on its website, informing students of the catalog.

By September 1 of each year, each community college board of trustees must report to the Division of Community Colleges the total amount of revenue generated by the distance learning course user fee for the prior academic year and how the revenue was expended.

The bill clarifies the authority of the State Board of Education to adopt rules to administer the provisions of s. 1009.23(12), F.S.

State University Student Fees

The bill authorizes each state university to assess a student who enrolls in a course listed in the Florida Higher Education Distance Learning Catalog a per-credit-hour distance learning course fee. The amount of the distance learning course fee may not exceed the additional costs of the services provided that are attributable to the development and delivery of the distance learning course. The state university may not assess any other fees to cover the same costs. The state university is required to prominently display the link for the catalog on its website, informing students of the catalog.

C. SECTION DIRECTORY:

- Section 1. Creates an unnumbered section; establishing the Florida Distance Learning Task Force; providing for membership; requiring the task force to submit a report containing certain recommendations to the Governor, the Legislature, and certain entities by a specified date; providing for future expiration.
- Section 2. Creates s. 1004.09, F.S., establishing the Florida Higher Education Distance Learning Catalog; requiring the Florida Distance Learning Consortium to establish guidelines and procedures and provide information on certain requirements and information relating to distance learning courses and degree programs; requiring that the catalog include a tool for data analysis.
- Section 3. Amends s. 1009.23, F.S., exempting a distance learning course from laboratory fees; ; authorizing the State Board of Education to adopt rules; authorizing a community college to assess a student enrolled in a course listed in the catalog a per credit hour user fee; requiring that such fee not exceed a certain amount; prohibiting the assessment of other fees if the distance learning course user fee is assessed; requiring an annual report; requiring a website link to the catalog on the institution's website.
- Section 4. Amends s. 1009.24, F.S., authorizing a state university to assess a per credit hour distance learning course fee; requiring that such fee not exceed a certain amount; prohibiting the state university from assessing duplicative fees to cover the same additional costs; requiring a website link to the catalog on the institution's website.
- Section 5. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Florida Distance Learning Consortium and Online Course Catalog

The House General Appropriations Act for Fiscal Year 2008-09 (HB 5001) includes funding to support the Florida Distance Learning Consortium. Approximately \$349,000 is provided in Line Item 128 for distance learning. These funds will be allocated to the Consortium by the Department of Education. Additional funding is provided for the Consortium through the general revenue appropriations to the University of South Florida in Line Item 151. The estimated amount that the university will allocate to the Consortium in Fiscal Year 2008-09 is approximately \$334,000.³

Distance Learning Fee

The bill authorizes community colleges and state universities to assess a fee for distance learning courses that are included in the online course catalog. Currently, most of the community colleges and state universities are charging fees for distance learning courses. During 2006-2007, state universities reportedly collected \$17.4 million in distance learning fee revenues.⁴; The Florida Community College System estimates distance learning fee revenues of \$7.4 million for Fiscal Year 2007-2008.⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

³ Estimate provided by the Board of Governors on April 10, 2008.

⁴ Summary of Distance Learning Fee & Revenue, State University System

⁵ Florida Community College System, Distance Learning Revenue Survey, Fiscal Year 2007-2008

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

CS/HB 7105 clarifies the rule-making authority of the State Board of Education with regard to the community college user fees authorized pursuant to s. 1009.23(12), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 21, 2008, the Policy and Budget Council adopted a strike-everything amendment and reported HB 7105 favorably as a Council Substitute. The amendment conformed HB 7105 with its Senate companion, CS/CS/SB 1762. CS/HB 7105 differs from HB 7105 in the following ways:

- CS/HB 7105 does not establish the Florida Distance Learning Consortium in statute.
- CS/HB 7105 establishes the 9-member Florida Distance Learning Task Force to examine a number of issues relating to postsecondary distance learning and make recommendations to the Governor, Legislature, the State Board of Education, the Board of Governors, and the university and community college boards of trustees no later than March 1, 2009. The task force members are appointed by the chancellors of the Division of Community Colleges and the Board of Governors and include the Executive Director of the Florida Distance Learning Consortium. The Task Force expires July 1, 2009.
- CS/HB 7105 does not require state universities to submit an annual report on distance learning revenues.
- CS/HB 7105 requires community colleges and state universities to prominently display a link to the catalog on the institution's website.